Appeal No. 45 *of* 1904-05.

Appellants	*Respondent*
	Versus
1. Lingegowda, son of Gude Lingegowda of Chikmalur village. 2. Aji Singalachar of Dodmalur village, Channapatna Taluk.	Mr. Setlur, Advocate, Bombay High Court and Agent of the Inamdar of Kudlur village, Channapatna Taluk.

Subject.

Appeal against the order of the Deputy Commissioner of the Bangalore District, declining to permit the appellants to continue to cultivate certain lands of Chikmalur village in the Channapatna Taluk, on the ground that the said lands had been treated as kharab at the time of the Survey Settlement and included into the tank bed of the adjoining Inam village of Kudlur in the said taluk.

The facts of the case appear sufficiently from the following :—

Decision.

This is a very simple case. The appellants owned certain lands in the Sirkar village of Chikmalur. At the Survey Settlement these and certain other lands were found to be within the level line of the tank of the neighbouring Inam village of Kudlur. They were thereupon classed as kharab and included in the tank bed. The appellants nevertheless continued to cultivate their lands. For so doing they were found fault with and fined. This was in 1894-95. They have since been persistently complaining against this treatment. There was a difference of opinion as to whether the lands were really within the water spread of the tank. Several inspections were made and in the result both the Revenue and Public Works officers were of opinion that though not altogether outside the water line there was nothing to prevent the lands being permitted to be cultivated as usual when no water was standing thereon. The Deputy Commissioner did not however see his way to grant the appellants any relief. Hence this appeal.

2. There can be no doubt that the lands in question are situate in a Sirkar village, and that the appellants held the same for several decades before the Survey Settlement. That being so the summary eviction of the appellants is a proceeding for which there can be no justification. Nor can they be interdicted from enjoying the lands in such manner as they might find possible so long as the right of occupancy remains unacquired from them either by private negotiation or in accordance with law.

3. Under these circumstances Government direct that the lands be allowed to remain in the appellants' undisturbed possession to be enjoyed by them as best they can and on payment of such assessment as may be fixed by the Survey Department, until duly acquired from them for inclusion in the tank bed.

No. R. 10059-59 *A.—R. M.* 486-03-10, *dated Bangalore,* 25*th January* 1906.

Copies of the above are forwarded to the (1) Deputy Commissioner of the Bangalore District, together with the records received with his letter No. 191, dated the 8th September 1904, and (2) to the Survey and Settlement Commissioner in Mysore, together with the village maps of Kudlur and Chikmalur villages received with his letter No. 83, dated the 12th December 1905.

Appeal No. 43 *of* 1905-06.

Appellant	*Versus*	*Respondent*
Komaraiya		Nagappa.

Subject.

Appeal against the order of the Deputy Commissioner of the Hassan District, dismissing the appellant's suit filed to establish his claim to the registry of the shanbhogi baraward in his name, of either of the two circles of Jakkanahalli and Agile in the Hassan Taluk.

The facts of the case appear sufficiently from the following :—

Decision.

The plaintiff (appellant) and the father of the defendant (respondent) were brothers, being the sons of one Subraya who was the registered shanbhog of Agile and certain villages until his death which took place in the year 1847. The defendant's father being the eldest son of the deceased was appointed as his successor in 1848. In consequence however of his incapacity, the office was as a matter of fact held by the appellant until the former's death which